IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
FRIDAY, THE EIGHTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT
THE HON'BLE MR JUSTICE S.ANANDA REDDY
WRIT PETITION NO : 9802 of 2004

Between:
Sri Mummadi Sidda Shivalinga Prasad, Shambhudevara Swamy,S/o.Sri Konda Paradesi, Sri Sambhudevara Math, Chebrole Post & Mandal Guntur District.

..... PETITIONER

AND

1 Govt.of Andhra Pradesh Endowments Department, rep.by its Commissioner Tilak Road, Hyderabad.
2 The Executive officer, Chebrole Group of Temples, Chebrole post & Mandal, Guntur Dist.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of writ Mandamus or any other appropriate writ (1)declaring the action of the respondent No.1 commissioner in nominating the Executive officer, Chebrolu Group of Temples the 2nd respondent herein as fit person to manage the affairs of the Sri Sambhudevara Math, Chebrole as illegal and arbitrary; (ii) direct the 1st respondent to accord permission to the writ petitioner to succeed as Mathadhipathi of Sri Sambhudevara Math, Chebrole in terms of section 53 of the Act; (iii) declare that the Executive officer, Chebrole Group of Temples cannot fill up the temporary vacancy of Sri Sambhudevara Math, Chebrole; (iv) and pass.

For the Petitioner: MR.G.VIDYASAGAR

For the Respondents: GP FOR ENDOWMENTS

The Court made the following:

ORDER:

This writ petition is filed by the petitioner questioning the action of the first respondent-Commissioner of Endowments in appointing a fit person by removing the earlier Mathadhipathi Sri Mummidi Sidda Chenna Mallikarjuna Sambhudevara Swamy, Sri Sambhudevara Math, Chebrole (v), Tenali (tq), Guntur District, on certain irregularities.

2. According to the petitioner, there is no provision under the A.P. Charitable & Hindu Religious Endowments Act, 1987 (for short 'the Act') under which the respondent can appoint a fit person whenever a Mathadhipathi is removed on certain charges of irregularities. According to the learned counsel for the petitioner, though the impugned order of appointment of a fit person was passed as early as on 31-05-1991, the said order was subject matter of litigation and finally only in the year 2004, the Executive Officer, Chebrole Group of Temples, Chebrole, assumed charge. Therefore, the petitioner was constrained to approach this Court questioning the said action of the first respondent in

appointing the second respondent and the second respondent in assuming the charge as fit person. According to the learned counsel, under Sections 52 and 53 of the Act, the Commissioner of Endowments is entitled to appoint a Mathadhipathi either on temporary basis or on permanent basis in accordance with the provisions of the Act and there is no provision for appointing any outsider to look after the affairs of the Math as Mathadhipathi. The learned counsel also contended that under Section 54 of the Act, a successor Mathadhipathi can be nominated by the predecessor Mathadhipathi and accordingly, the petitioner claims that he was nominated by his predecessor Mathadhipathi and therefore, he is entitled to succeed as Mathadhipathi and accordingly, even a representation was also made to the first respondent to declare him as Mathadhipathi of Sri Sambhudevara Math, Chebrole (v), Tenali (tq), Guntur District. But, the first respondent did not pass any orders so far. Hence, the present writ petition.

3. The learned Government Pleader for Endowments, however, contended that even as per the judgments of Supreme Court as well as this Court, the Commissioner of Endowments is empowered to appoint any person as either temporary or permanent Mathadhipathi whenever there is a vacancy of Mathadhipathi, to look after the affairs of the Math. In the present case, as the existing

Mathadhipathi was removed for the irregularities committed by him, the Executive Officer of Chebrole Group of Temples, Chebrole, was appointed as a fit person, which is a temporary arrangement till permanent arrangement is made by appointing a successor either on temporary basis or on permanent basis. Therefore, it is contended by the learned Government Pleader that there is no merit warranting interference of this Court.

4. Heard the learned counsel for the parties and considered the material on record.

5. Admittedly, the existing Mathadhipathi by name Sri Mummidi Sidda Chenna Mallikarjuna Sambhudevara Swamy was removed from the post of Mathadhipathi by orders dated 31-05-1991. By the same order, the Executive Officer, Chebrole Group of Temples, Chebrole, was appointed as a fit person to look after the affairs of the Math. In view of the dispute against the above order passed by the Commissioner of Endowments-first respondent, the Executive Officer did not assume the office till 08-06-2004. But, immediately thereafter, the petitioner made a representation to the Commissioner of Endowments stating that a fit person cannot be appointed and the first respondent has no such jurisdiction to appoint a fit person. But, however, as he was nominated as a successor Mathadhipathi, he can as well be appointed as a Mathadhipathi as he fulfills all the

requirements of law, apart from being nominated as a successor Mathadhipathi.

6. As the said representation of the petitioner is pending before the first respondent, the first respondent is accordingly directed to consider the same and pass appropriate orders whether the petitioner is eligible to be appointed as Mathadhipathi or not and if the petitioner is not eligible to be appointed, the first respondent shall also consider the claims of any other persons in accordance with law and pass appropriate orders expeditiously, preferably within a period of six weeks from the date of receipt of a copy of this order of this Court.

7. Pending appointment of a Mathadhipathi either on temporary basis or on permanent basis in terms of Section 52 or 53 of the Act, the second respondent who was appointed as a fit person to the Math is directed to look after the day to day affairs of the Math and at the same time, he is not entitled to take any important decisions so as to affect the customs or other procedures that are being followed in the said Math.

8. The writ petition is accordingly disposed of. No costs.

18th June, 2004

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

To

1 The Commissioner, Govt. of Andhra Pradesh Endowments Department, Tilak Road, Hyderabad.
2 The Executive Officer, Chebrole Group of Temples, Chebrole post & Mandal, Guntur Dist.
3 Two CCs to G.P. for Endowments, High Court Buildings, Hyderabad.
4 Two CDs.